IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24172 of 2004

Between:

R.N.Shelly, s/o R.R.Shelly, Conductor,
R/o 281/C, CIB Quarters, Kachiguda, Hyderabad.

..... PETITIONER

AND

The Depot Manager, APSRTC, Musheerabad Depot,
Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the respondent herein and issue writ, order or direction more particularly one in the nature of writ of mandamus declaring the proceedings No.02/95 (20)/2004-MSRD dated 24-08-2004 in postponing the Annual Increment next falls due for a period of 2 years which shall also have effect on the future increments of the petitioner duly treating the period of suspension as not on duty for the purpose of Leave, Salary, Increments, Seniority and Gratuity as arbitrary, illegal, in violation of Principles of natural justice, contrary to APSRTC Service Regulations, un-fair labour practice and also in violation of Articles 14 and 21 of the Constitution of India consequently set-aside the same.

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondent: MR.V.T.M.PRASAD (S.C. for APSRC)

The Court at the admission stage, made the following :

THE HON'BLE MR JUSTICE K.C.BHANU

WRIT PETITION NO: 24172 of 2004

ORDER:

Challenging the proceedings No.02/95 (20)/2004-MSRD, dated 24-08-2004 in postponing the Annual Increment next falls due for a period of two years which shall also have effect on the future increments of the petitioner duly treating the period of suspension as not on duty for the purpose of leave, salary, increments, seniority etc., the present writ petition has been filed.

2. The learned counsel for the petitioner contended that the findings of the disciplinary authority are so perverse and that without giving any reasons, the period of suspension was treated 'not on duty' and therefore, he prays to quash the proceedings.

3. On the other hand, the learned standing counsel for the respondent contended that the statutory appeal is provided to the petitioner to file an appeal and therefore, the petitioner has to avail that remedy in stead of filing the present writ petition.

4. No doubt, exhausting the alternative remedy is not a bar for exercising the jurisdiction of this Court but at the same time the jurisdiction of the authorities who issued impugned proceedings is not under challenge and also it is not the case of violation of principles of natural justice. The contentions raised by the learned counsel for the petitioner in this writ petition are left open and the same shall have to be considered by the appellate authority after duly recording the reasons.

5. Therefore, the writ petition is disposed of with a direction to the petitioner to file an appeal before the appellate authority as contemplated under the regulations within a period of two months from the date of impugned proceedings. Since the petitioner has filed the writ petition before this Court, the period spent in this Court is to be excluded for excluding the limitation. Hence, the petitioner is at liberty to file an appeal with delay condonation petition and the same shall have to be considered by the respondent in view of the fact that

the petitioner prosecuted proceedings in the Court and the period spent by this Court shall have to be excluded.

6. Accordingly, the writ petition is disposed of. In the circumstances, there shall be no order as to costs.

_____ December 27, 2004

Kvr

TO

1. The Depot Manager, APSRTC,

   Musheerabad Depot,
   Hyderabad.

2 Two C.D. Copies.